

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

d/p

UNITED STATES OF AMERICA,
Plaintiff,

ORDER

12-CV-05685 (NGG) (JMA)

-against-

MARK R. SCHWARTZ and RACHEL
SCHWARTZ,

Defendants.

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NICHOLAS G. GARAUFIS, United States District Judge.

On November 16, 2012, Plaintiff United States of America ("the Government") filed this action against Defendants Mark R. and Rachel Schwartz, in order to reduce to judgment Defendants' outstanding tax liability for the years 2001 through 2011, in the amount of \$387,369.48 for unpaid income taxes, plus interest and statutory accruals. (Compl. (Dkt. 1).) The Government served Defendants on December 18, 2012, and filed proof of service with the court on January 3, 2013. (Dkts. 5-6.) The Government alleges in its complaint that a delegate of the Secretary of Treasury has assessed Defendants for federal income taxes, estimated tax penalties, and interest owed for the years 2001 through 2011 and that Mark R. and Rachel Schwartz received notice of each assessment. (Compl. ¶¶ 3-4.) Pursuant to the Government's request, the Clerk of Court entered Defendant's default on May 24, 2013. (Dkts. 10-11.) On June 18, 2013, the Government moved for a default judgment. (Dkt. 12.) The court referred this motion to Magistrate Judge Joan M. Azrack for a report and recommendation ("R&R") pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1). (See June 27, 2013, Order (Dkt. 13).)

On September 4, 2013, Judge Azrack issued an R&R, recommending that the court grant the Government's motion for default judgment and direct the entry of judgment against

Defendants, jointly and severally, in the amount of \$562,894.70 for unpaid income taxes for the years 2001 through 2011, which includes interest and statutory accruals through May 31, 2013, plus interest and statutory accruals since May 31, 2013, until defendants pay the judgment amount. (R&R (Dkt. 22).) On September 9, 2013, the Government certified that the R&R had been served on Defendants. (Dkt. 15.)

No party has objected to Judge Azrack's R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2); (see also R&R at 6.) Therefore, the court reviews the R&R for clear error. See Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010); La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); cf. 28 U.S.C. § 636(b)(1). Finding no clear error, the court ADOPTS the R&R in its entirety, see Porter v. Potter, 219 F. App'x 112 (2d Cir. 2007), and as set forth above and in the R&R: the Government's motion for default judgment is GRANTED and judgment shall be entered against Defendants in the amount of \$562,894.70 for unpaid income taxes for the years 2001 through 2011, inclusive of interest and statutory accruals since May 31, 2013, plus interest and statutory accruals since May 31, 2013 until Defendants pay the judgment in full. The Clerk of Court is respectfully directed to enter judgment and close the case.

SO ORDERED.

Dated: Brooklyn, New York
October 2, 2013

s/Nicholas G. Garaufis
NICHOLAS G. GARAUFIS
United States District Judge